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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/758,440	01/15/2004	John E. Butcher	RICZ 2 00009	5618
27885	7590	06/20/2006	EXAMINER	
FAY, SHARPE, FAGAN, MINNICH & MCKEE, LLP 1100 SUPERIOR AVENUE, SEVENTH FLOOR CLEVELAND, OH 44114			QUINN, COLLEEN M	
			ART UNIT	PAPER NUMBER
			3634	

DATE MAILED: 06/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/758,440	Applicant(s) BUTCHER ET AL.	
	Examiner Colleen M. Quinn	Art Unit 3634	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 April 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>7/2/06 7/25/05 cmq</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

Applicant's arguments with respect to claims 1-16 have been considered but are moot in view of the new ground(s) of rejection.

Claim Objections

Claim 5 is objected to because of the following informalities: Regarding claim 5, line 3, it appears the applicant intends to state, "a pin that *passes* through..." rather than "a pin that *passed* though..." Appropriate correction is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over McPherson (US 5,109,991) in view of Abramson (US 5,174,758).

McPherson discloses a system for organizing and displaying wall covering samples, the system comprising a plurality of wall covering samples (Specification, column 1, line 20), a plurality of sample holders (36), a case (10) having a plurality of compartments (22) for each holder, in which the sample

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holders can be placed and removed (Specification, column 1, lines 19-23), the holders comprising a deck (38) and the samples and deck being held together by a pin (40) that passes through holes in the samples (figure 6). McPherson fails to disclose each holder being dedicated to a color group, the samples rotating in a plane substantially normal to the pin, and the samples having a face that indicates the color group within the deck.

Abramson teaches sample holders (10) which rotate (Figure 1) substantially normal a pin (12), each holder being dedicated to a color group (1a-1f), wherein the samples are organized into the holders based upon respective characteristics allowing a user to view more than one sample at a time (Specification, column 4, lines 54-56), and the holders having a face (Figure 1, unnumbered sample book cover page), wherein the face includes indicia thereon representative of the group within the respective holder, providing a visual guide for users. Therefore, to one of ordinary skill in the art, it would have been obvious to provide the wall covering sample case of McPherson, with the sample holders of Abramson, in order allow users to view a plurality of samples within a color group all at once.

Claims 9-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over McPherson (US 5,109,991) in view of Abramson (US 5,174,758) as applied above. It would have been obvious, to one of ordinary skill, to place the sample books of Abramson, organized by color groups, as disclosed above, on the shelves of McPherson which are intended to hold and display wall covering

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sample books. The sample books of Abramson additionally display a printed design element on each sample (claim 9c-d).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Day et al (4104809), Teter et al (6112665), Reiss (266543) and Brozak (6427853) all teach display options for colored samples with key features such as sample books that fan, and storage compartments.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Colleen M. Quinn whose telephone number is (571) 272-6289. The examiner can normally be reached on 8:30AM-5:00PM Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on (571)272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-

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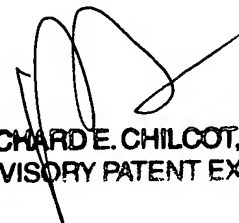
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9199 (IN USA OR CANADA) or 571-272-1000.

CMQ

6/7/06



RICHARD E. CHILCOT, JR.
SUPERVISORY PATENT EXAMINER